

**Applicant:** General Public in the State of Connecticut  
& lands located within the exterior boundaries of an  
Indian Reservation.

**Effective Date:** May 31, 2006  
**Expiration Date:** May 31, 2011

**DEPARTMENT OF THE ARMY  
PROGRAMMATIC GENERAL PERMIT  
STATE OF CONNECTICUT  
&  
Lands Located Within the Exterior  
Boundaries of an Indian Reservation<sup>1</sup>**

The New England District of the U.S. Army Corps of Engineers (Corps) hereby issues a Programmatic General Permit (PGP) to expedite review of minimal impact projects in coastal and inland waters and wetlands within the State of Connecticut and lands located within the exterior boundaries of an Indian reservation.

**I. GENERAL CRITERIA:**

Activities with minimal impacts are specified by the terms and conditions of this PGP and the attached Appendices A & B, Definition of Categories, qualify for authorization under either Category 1 or Category 2.

Category 1: Non-reporting. Projects are eligible without screening (provided other authorizations are obtained which this permit states are necessary for activities to be eligible for authorization under this category) and do not require notification to the Corps of Engineers.

Category 2: Screening/Reporting. These projects require the submittal of an application to the Corps followed by screening the proposal by the Corps, the U. S. Fish and Wildlife Service (U.S. FWS), the U. S. Environmental Protection Agency (EPA), the National Marine Fisheries Service (NMFS), and the Connecticut Department of Environmental Protection (DEP). Category 2 projects may not proceed until written notification in the form of a Corps PGP authorization letter is received.

This PGP does not affect the Individual Permit review process or activities exempt from Corps' jurisdiction.

**II. ACTIVITIES COVERED:**

Work and structures that are located in, or that affect, navigable waters of the United States (U.S.) (Corps regulates under Section 10 of the Rivers and Harbors Act of 1899) and the discharge of dredged or fill material into waters of the U.S. (Corps regulates under Section 404 of the Clean Water Act (CWA)).

<sup>1</sup> Indian reservation lands are considered a sovereign nation, and are therefore acknowledged separately from the State of Connecticut for purposes of this PGP.

### III. PROCEDURES:

#### A. State and Local Approvals:

For projects authorized pursuant to this PGP, when any of the following State or local approvals are also required, they must be obtained in order for this PGP authorization to be valid. Applicants are responsible for ensuring that all required permits and approvals have been applied for and obtained. (Refer to General Condition 1, Page 10)

- (1) Inland Wetlands and Watercourses Permit under the Inland Wetlands and Watercourses Act (Connecticut General Statutes (CGS) Sections 22a-36 to 22a-45(a), inclusive) ✓
- (2) Water Diversion Permit under the Connecticut Water Diversion Policy Act (CGS Sections 22a-365 to 22a-378(a), inclusive) ✓
- (3) Stream Channel Encroachment Lines Permit (CGS Sections 22a-342 to 22a-349(a), inclusive) ✓
- (4) Dam Safety Construction Permit (CGS Sections 22a-401 to 22a-411, inclusive) ✓
- (5) Structures, Dredging and Filling Permit (CGS Sections 22a-359 to 22a-363f, inclusive)
- (6) Tidal Wetlands Permit under the Tidal Wetlands Act (CGS Sections 22a-28 to 22a-35a inclusive)
- (7) Certificate of Permission (CGS Section 22a-363b)
- (8) Long Island Sound General Permits (CGS Sections 22a-28 to 22a-35 and Sections 22a-359 to 22a-363f inclusive)
- (9) Approvals for marine-based aquaculture activities required by Connecticut General Statutes Section 22-11h implemented by the CT Department of Agriculture (DOA) including individual in-water structures used for aquaculture, including, but not limited to, racks, cages, or bags, as well as buoys marking such structures.
- (10) Water Quality Certification (WQC) under Section 401 of the Federal CWA (33 USC Sec. 1341). Section 401(a)(1) of the Clean Water Act requires that applicants obtain a WQC or waiver from the state water pollution control agency (CT DEP) or EPA for Indian reservation lands to discharge dredged or fill materials into waters of the U.S.
- (11) Coastal Zone Management Consistency (CZM) Concurrence under Section 307 of the Federal CZM Act of 1972, as amended. Section 307(c) of the CZM of 1972, as amended, requires applicants to obtain a certification or waiver from CT DEP that the activity complies with the state's CZM program for activities affecting a state's Coastal Area.<sup>2</sup>

#### B. Corps Authorizations:

##### CATEGORY 1 (Non-Reporting)

##### Eligibility Criteria

Activities in Connecticut and lands located within the exterior boundaries of an Indian reservation may proceed without application or notification to the Corps if they:

- Are subject to Corps jurisdiction (See General Condition 2, Page 10),
- Meet the definition of Category 1 in Appendices A & B – Definition of Categories, and
- Meet the General Conditions of the PGP (see Pages 10-18).

<sup>2</sup> The state's Coastal Area is statutorily defined as: all lands and waters within the municipalities of Greenwich, Stamford, Darien, Norwalk, Westport, Fairfield, Bridgeport, Stratford, Shelton, Milford, Borough of Woodmont, Orange, West Haven, New Haven, Hamden, North Haven, East Haven, Branford, Guilford, Madison, Clinton, Westbrook, Deep River, Chester, Essex, Borough of Fenwick, Old Saybrook, Lyme, Old Lyme, East Lyme, Waterford, New London, Montville, Norwich, Preston, Ledyard, Groton (city, Town and Long Point Borough), Mystic and Stonington (Town & Borough) [Section 22a-94(a) CGS].

Activities subject to Corps jurisdiction that are not regulated by the CT DEP (Office of Long Island Sound Programs/Inland Water Resources Division) or a Connecticut municipal inland wetlands agency, except for those located on lands within the exterior boundaries of an Indian reservation, will be subject to the Category 2 screening requirements of this PGP.

Projects not eligible under Category 1 of this PGP may be screened under Category 2 provided they meet the criteria as defined in Appendices A & B.

WQC – Inland: The Connecticut DEP has conditionally granted WQC for Category 1 activities in inland wetlands and waterways. They denied WQC for Category 1 activities that involve piping, boxing or other enclosing or covering of inland waters or waterways for other than a driveway or roadway crossing; projects with direct or secondary impacts to Special Wetlands, Threatened, Endangered or Special Concern Species, Significant Natural Communities identified by the CT Natural Diversity Database; projects with fill for a dam, dike, levee, water impounding or other water diversion structures; projects with activities regulated by CT DEP under Water Diversion Policy Act or Dam Construction; projects with fill placed within an established FEMA floodway or flood plain; projects with detention or retention of storm water in inland waters, waterways or wetlands; projects that channel or relocate inland waters or waterways; and projects occurring within a segment of a National Wild and Scenic River System or within 0.25 mile upstream or downstream of the main stem or tributaries of a National Wild and Scenic River System segment. CT DEP conditionally granted WQC for Category 2 activities in inland wetlands and waterways provided applicants obtain other required authorizations as listed on Page 2, Section A of this PGP. The U.S. EPA granted WQC for Category 1 activities located on land within the exterior boundaries of an Indian Reservation.

WQC – Coastal: The Connecticut DEP has conditionally granted WQC for Category 1 and Category 2 activities provided that applicants obtain the appropriate required OLISP permit. For Category 1 activities in tidal, coastal and navigable waters, the PGP is not valid until the CT DEP Office of Long Island Sound Programs (OLISP) authorization is granted. The OLISP conducts a substantial evaluation regarding consistency with state water quality standards on individual activities in tidal, coastal and navigable waters. As such, a WQC is inherent in OLISP authorizations 5 - 8 listed on Page 2, Section A of this PGP. A separate WQC application is not required for these OLISP authorized activities. **However, Federal agencies must apply directly to OLISP for a WQC.**

CZM: For Category 1 activities in the state's coastal area, this PGP is not valid until the state issues an Individual CZM Consistency Determination. The CT DEP authorizations for activities in the state's coastal area include a substantive evaluation by OLISP regarding consistency with the CZM program. As a result, a CZM consistency concurrence is inherent in the OLISP permit process for State authorizations 5 - 8 listed on Page 2, Section A of this PGP. Therefore, a separate application to the Corps is not required for these activities. However, this is not the case for State authorization 9, Page 2 (marine-based aquaculture projects) which are subject to the permitting authority of the CT DOA Bureau of Aquaculture. For these activities, DOA will forward the application to the Corps and the CT DEP for an Individual CZM Consistency Determination.

For those applicants that require only Coastal Zone Management Consistency Concurrence (see III. A. 11), **they must apply directly to OLISP for CZM consistency.** OLISP will then forward those applications, as appropriate, to the Corps of Engineers who will determine whether the proposed activity is eligible under the CT PGP program.

Project proponents seeking Category 1 authorizations must comply with this PGP's General Conditions (beginning on Page 10), and other Federal laws such as the National Historic Preservation Act, the Endangered Species Act (ESA) and the Wild and Scenic Rivers Act. Therefore, consultation with the Corps and/or outside experts such as the Connecticut Commission on Culture and Tourism and any appropriate Indian tribes is recommended when there is a high likelihood of the presence of resources of concern.

Although Category 1 projects are non-reporting, the Corps reserves the right to require screening under Category 2 or Individual Permit review (see General Condition 4, Discretionary Authority, Page 10) if there are concerns for the aquatic environment or any other factor of the public interest.

**Enforcement cases.** This PGP does not apply to any existing or proposed activity in Corps jurisdiction associated with an ongoing Corps or EPA enforcement action until such time as the enforcement action is resolved or the Corps determines that the activity may proceed independently without compromising the enforcement action. The Corps may choose not to accept applications or issue permits to any applicant with outstanding violations.

## **CATEGORY 2 (Reporting – Screening)**

### **Eligibility Criteria**

Activities in Connecticut and lands located within the exterior boundaries of an Indian reservation require written approval from the Corps if they:

- Are subject to Corps jurisdiction (See General Condition 2, Page 10),
- Meet the definition of Category 2 in Appendices A & B – Definition of Categories, and
- Meet the General Conditions of the PGP (see Pages 10 – 18).

For Category 2 projects, applicants must obtain written authorization from the Corps and any required State approvals as stated on Page 2. These projects will be reviewed during interagency screening/joint processing meetings (see Joint Processing/Interagency Screening Meeting Procedures on Page 7) to determine whether such activities may be eligible under this PGP. To be eligible, and subsequently authorized, an activity must result in minimal impacts to the aquatic environment as determined by the Corps based on comments from the review team and the criteria listed above. Mitigation may be required to compensate for unavoidable impacts to ensure net effects of a project are minimal.

**Enforcement cases.** See previous section.

### **Category 2 Application Procedures:**

#### **CT DEP, OLISP regulated activities**

For work affecting tidal wetlands and tidal, coastal or navigable waters pursuant to State authorities 5, 6, 7, 8, 10 and 11 listed on Page 2, Section A of this PGP, OLISP will forward copies of application packages and OLISP approvals to the Corps on a weekly basis. If a project meets Category 1, the Corps will forward a letter of eligibility to the applicant.

For projects involving dredging with open water disposal, applicants must send the required information listed above to the CT DEP, OLISP and the Corps. This information is necessary for

developing sampling plans and ultimately determining the suitability of the material to be dredged with respect to the requested disposal site. These projects will also be reviewed at the screening meeting.

The Corps, Federal resource agencies, and CT DEP will review State/Federal application packages, COPs and tentative determinations for activities eligible under Category 2 at monthly PGP Joint Processing/Interagency Screening Meetings.

#### **Aquaculture activities regulated by the Department of Agriculture**

This refers to marine- and land-based aquaculture activities, including associated structures regulated by the Connecticut Department of Agriculture, Connecticut General Statutes Section 22-11h.

Applicants should apply directly to the Connecticut Department of Agriculture, Bureau of Aquaculture (DOA BA) using the attached Department of Army Application for Aquaculture form. The DOA BA will forward a copy of the aquaculture application package to the Corps, the State of Connecticut Department of Environmental Protection's (CT DEP) Boating Division, Marine Fisheries Division, Office of Long Island Sound Programs (OLISP), and CT DEP, Inland Water Resources Division (IWRD) for activities impacting inland waters.

These application packages for marine-based activities will be screened by the Corps, the Federal resource agencies, and the CT DEP, OLISP with input from the CT DEP Boating and Marine Fisheries Divisions. Screening will initiate review of the application by the CT DEP OLISP for Coastal Zone Management consistency concurrence. The CT DEP OLISP will make a determination on the completeness of the application for CZM consistency review and/or the eligibility of the activity for state aquaculture permit exemption within 30 days from the date of the screening meeting.

**CT DEP, IWRD regulated Activities:** Work affecting inland waters/waterways and wetlands, waters of the United States.

A separate Corps application form (ENG Form 4345) is required for these activities. Applicants must submit 4 copies of the application, 8.5" x 11" drawings and one large-scale drawing, three copies of the functions and values assessment and wetland delineation documentation, one copy of the CT DEP addendum (attached), one copy of their Connecticut Commission on Culture and Tourism or THPO coordination (see Application Procedures for All Category 2 Activities, beginning on Page 6), and any proposed mitigation to the Corps (see Page 19 for Corps contact information).

To expedite the review process, applicants shall also submit the following directly to CT DEP Inland Water Resources Division: three copies each of the Corps application form, 8.5" x 11" drawings, large scale drawings; wetlands functions and values assessment, Federal wetlands delineation documentation (data sheets); CT DEP addendum and documentation of any proposed mitigation. Any application fee required by the State of Connecticut shall be submitted directly to the Connecticut DEP, Central Permit Processing Unit, 79 Elm Street, Hartford, Connecticut 06106-5127.

CT DEP, Inland Water Resources Division will review the activity for compliance with state water quality standards and CZM consistency with the state's coastal program (coastal area projects) that are not already being reviewed by OLISP under State authorizations 5, 6, 7, 8, 10 and 11 listed on Page 2, Section A of this PGP.

The CT DEP, Inland Water Resources Division has 60 days from receipt of a complete application to make a determination on their WQC.

### **Application Procedures For All Category 2 Activities**

The Corps must review and approve in writing all Category 2 activities. The Corps will determine if an application:

- (a) requires additional information (see "information typically required" below);
- (b) is appropriate for screening with the Federal resource agencies (See Joint Processing/Interagency Screening Meeting Procedures on the following page);
- (c) is ineligible under the terms and/or conditions of this PGP; or
- (d) will require Individual Permit review, regardless of whether the terms and conditions of this PGP are met, based on concerns for the aquatic environment or any other factor of the public interest (see General Condition 4, Discretionary Authority).

If open water disposal of dredged material is proposed, the Corps will make a suitability determination, fully coordinated with the Federal resource agencies, before evaluating a project at a joint processing meeting.

To ensure compliance with the conditions of this PGP, consultation with the Corps and outside experts is required. This includes consultation with the Connecticut Historic Preservation Commission and the appropriate Native American Indian tribes to ensure compliance with General Condition 7. Also, note the review thresholds under Category 2 apply to single and complete projects only (see General Condition 5). Therefore, applicants shall submit a copy of their application materials to the Connecticut Commission on Culture and Tourism, Historic Preservation and Museum Division (all of CT), and for projects east of the Thames River to the Rhode Island border and inland to Montville and Ledyard, to the Mashantucket Pequot and the Mohegan Tribal Historic Preservation Officers (THPO) to be reviewed for the presence of historic, archaeological or tribal resources in the permit area that the proposed work may affect. See Page 19 for addresses.

Application packages submitted to the Corps shall include information to indicate that this coordination has been done (a copy of the applicant's cover letter to the Connecticut Commission on Culture and Tourism and tribes, a statement of having sent their application materials to the appropriate agency, or a copy of the response letters when applicable.) The Corps will be notified by the appropriate agency if there are State concerns that the proposed work will have an effect on historic resources.

### **Information Typically Required**

Please see [www.nae.usace.army.mil](http://www.nae.usace.army.mil) for a more comprehensive checklist. Select "Regulatory/Permitting," "Forms" and then "Application and Plan Guideline Checklist." In some instances all of the following information may not be required. Check with the Corps office for project-specific requirements.

- (a) purpose of project;
- (b) 8½"x 11" locus map and plan views of the entire property, including property lines, and project limits with existing and proposed conditions; site latitude and longitude, in decimal degrees;
- (c) typical cross-section views of all wetland and waterway fill areas and wetland replication areas;
- (d) legible, reproducible plans. Show mean low water (MLW), mean high water (MHW) and high tide line (HTL) elevations whenever in navigable waters;
- (e) clearly state the datum used in the each plan in either the title block or notes. Do not use local datum;

- (f) wetland delineation for the site, Corps wetland delineation data sheets (see web site), and calculations of waterway and wetland impact areas (see General Condition 2);
- (g) delineation of submerged aquatic vegetation, e.g., eel grass beds, in tidal waters;
- (h) volume, type and source of fill material to be discharged into waters and wetlands, including the area(s) (in square feet or acres) of fill in wetlands, below ordinary high water in inland waters and below the high tide line in coastal waters;
- (i) limits of any Federal Navigation Project in the vicinity and State Plane Coordinates for the limits of the proposed work closest to the Federal Navigation Project;
- (j) on-site alternatives analysis. Please contact Corps for guidance;
- (k) identify and describe potential impacts to Essential Fish Habitat. See General Condition 11 and contact Corps for guidance;
- (l) photographs of wetland/waterway to be impacted.

**Additional information required for dredging projects:** (This must be submitted directly to Corps)

- (a) for projects proposing open water disposal, applicants are encouraged to contact the Corps as early as possible regarding sampling and testing protocols. Sampling and testing of sediments without such contact should not occur and, if done, would be at the applicant's risk... Results of sediment testing, including physical (e.g., grain-size analysis), chemical and biological testing.
- (b) the area in square feet and volume of material, in cubic yards, to be dredged below mean low water;
- (c) existing and proposed water depths including datum basis;
- (d) type of dredging equipment to be used;
- (e) nature of material (e.g., silty sand);
- (f) any existing sediment grain size and bulk sediment chemistry data for the proposed or any nearby projects;
- (g) information on the location and nature of municipal or industrial discharges and occurrence of any contaminant spills in or near the project area, location of the disposal site (include locus sheet);
- (h) shellfish survey;
- (i) identify and describe potential impacts to Essential Fish Habitat (see General Condition 11);
- (j) delineation of submerged aquatic vegetation (e.g., eelgrass beds);
- (k) alternatives to open water disposal, if applicable.

**NOTE:** It is important that applicants supplement the Corps application form with appropriate and adequate drawings. You may refer to the Corps "Guide for Permit Applicants" for a complete description of sample drawing requirements. (This guide is on our website: [www.nae.usace.army.mil](http://www.nae.usace.army.mil), "Regulatory/Permitting," "Publications".) **Failure to submit a complete application with appropriate information could result in processing delays and/or administrative closure of the file.**

**Category 2 PGP Joint Processing/Interagency Screening Meeting Procedures:**

The Corps will review only complete applications for Category 2 projects requiring Corps approval at PGP Interagency Screening Meetings (or "joint processing" meetings) with the interagency review team [Federal resource agencies (FWS, EPA and NMFS) and CT DEP] to determine whether such activities may be authorized under this PGP. The CT DEP will comment on lands located within the exterior boundaries of an Indian reservation only when they have jurisdiction under Federal law. The screening meetings are held either at the Corps offices or other agreed upon locations on a monthly basis, or coordinated as necessary, to provide applicants with a timely response.

At the screening meeting, the interagency review team will determine if Category 2 applications:

- (1) are eligible under the PGP as proposed,
- (2) are ineligible under the terms and/or conditions of this PGP,
- (3) require additional information,
- (4) will require project modification, mitigation or other special conditions to minimize impacts and protect the aquatic environment to be eligible for this PGP, or
- (5) require Individual Permit review irrespective of whether the terms and conditions of this PGP are met, based on concerns for the aquatic environment or any other public interest factor (see General Condition 4 on Discretionary Authority).

Federal resource agency comments to the Corps must be made within 10 working days of the screening meeting. If Federal Resource Agency comments raise a concern whereby the Corps will require an Individual Permit, these comments must be confirmed in writing by the Branch Chief or Field Supervisor, within 10 working days of the initial response. These comments must clearly identify and reflect a concern related to the aquatic environment within their area of expertise; state the species or resources that could be impacted by the activities, and describe the impacts that either individually or cumulatively will be more than minimal. All comments raised by any one of the agencies will be coordinated with the applicant in a timely manner.

If the applicant is unable to resolve the concerns raised, the Corps, independently or at the request of either the CT DEP or one of the Federal Resource Agencies, will require an Individual Permit for the activities. The applicant will be notified of this in writing, and provided information about submitting the necessary application materials.

If the activity is determined through the federal/state screening to be eligible for authorization under the PGP, then a Corps PGP authorization letter will be sent directly to the applicant. If the activity is determined not eligible, then the Corps will contact the applicant to discuss the concerns raised. In either case, the Corps will notify the applicant, in writing, within 45 days of the federal/state screening meeting.

*Category 2 projects may not proceed until written notification is received from the Corps. This written approval will be in the form of a Corps PGP authorization letter sent directly to the applicant.*

#### **Emergency Situations Procedures**

Emergency situations are limited to sudden, unexpected occurrences that pose an imminent risk to life, significant loss of property, or significant economic hardship if initial corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process an application under standard procedures. If an emergency situation requires action in less than 30 days after the occurrence, it qualifies for the amended notification procedures described below.

#### **Notification Procedures for Emergency Situations:**

Any project proponent may request emergency authorization from the Corps; however, the Corps will determine if a project qualifies for these emergency situation procedures. When an application for Category 2 work is received that the Corps determines is an "emergency" as defined above, the Corps will email a copy of the plans and Determination of Eligibility to the EPA, F&WS, NMFS and the CT DEP. These agencies have 16 business hours to notify the Corps if they have any comments on authorization of the project under the PGP. If no response is received within 16 business hours, the Corps will proceed with a decision on the application. If the resource agencies have comments on the



proposal, they will have 16 business hours to put their comments in writing. If written comments from these agencies are not received within 16 business hours, the Corps will proceed with a decision on the application.

If a reviewing agency requests that an Individual Permit be required for a project or requests modifications to the project based on concerns within their area(s) of expertise, the Corps will notify the applicant within one business day of receipt of that request that the project as proposed does not qualify for authorization under this PGP and the emergency Individual Permit procedures may be followed. In any event, the Corps will notify the applicant within 16 business hours of commencement of the screening process as to whether the project may proceed under this PGP.

#### **Minerals Management Service (MMS) Review**

Projects with construction of solid fill structures or discharge of fill that may extend beyond the coastline or the baseline from which the territorial sea is measured (i.e., mean low water), must be coordinated with MMS, Outer Continental Shelf (OCS) Survey Group, pursuant to the Submerged Lands Act (43 USC. Section 13011315, 33 CFR 320.4(f)). The Corps will forward project information to MMS for their review. The MMS will coordinate their determination with the Department of the Interior (DOI) Solicitor's Office. The DOI will have 15 calendar days from the date MMS is in receipt of the project information to determine if the baseline will be affected. No notification within the 15-day review period will constitute a "no effect" determination. Otherwise, the solicitor's notification to the Corps may be spoken but must be followed with a written confirmation within 10 business days from the date of the spoken notification. This procedure will be eliminated if the State of Connecticut provides a written waiver of interest in any increase in submerged lands caused by a change in the baseline resulting from solid fill structures or fills authorized under this PGP.

#### **IV. INDIVIDUAL PERMIT**

Work that is not eligible under Category 2 as defined in Appendices A & B— Definition of Categories, or that does not meet the terms and conditions of this PGP, will require the submission of an application for an Individual Permit to the Corps (see 33 CFR Part 325.1). The screening procedures outlined for Category 2 projects will only serve to delay project review in such cases. The applicant should submit the appropriate application materials (including the Corps application form) at the earliest possible date. General information and application forms can be obtained at our web site or by calling us. Individual water quality certification and coastal zone management consistency concurrence are required, when applicable, from the State of Connecticut before Corps permit issuance. The Federal resource agencies' comments are due within 10 working days after the Public Notice's expiration date, unless the Corps receives and approves a written request for a time extension within ten working days after the notice's expiration.

## V. PROGRAMMATIC GENERAL PERMIT CONDITIONS:

The following conditions apply to **ALL** activities authorized under this PGP, including all Category 1 (non-reporting) and Category 2 (screening) activities:

### General Requirements

1. **Other Permits.** Authorization under this general permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
2. **Federal Jurisdictional Boundaries.** Applicability of this PGP shall be evaluated with reference to Federal jurisdictional boundaries. Applicants are responsible for ensuring that the boundaries used satisfy the Federal criteria defined at 33 CFR 328-329. These sections prescribe the policy, practice and procedures to be used in determining the extent of jurisdiction of the Corps of Engineers concerning "waters of the United States" and "navigable waters of the United States." Wetland boundaries shall be delineated in accordance with the January 1987 Corps of Engineers Wetlands Delineation Manual, located at <http://www.saj.usace.army.mil/permit/documents/87manual.pdf>. The U.S. Fish and Wildlife Service publishes the National List of Plant Species that Occur in Wetlands, located at <http://www.nwi.fws.gov>. The Natural Resources Conservation Service (NRCS) publishes the current hydric soil definition, criteria and lists, located at <http://www.statlab.iastate.edu/soils/hydric>.
3. **Minimal Effects.** Projects authorized by this general permit shall have minimal individual and cumulative adverse environmental impacts as determined by the Corps.
4. **Discretionary Authority.** Notwithstanding compliance with the terms and conditions of this permit, the Corps retains discretionary authority to require an Individual Permit review based on concerns for the aquatic environment or for any other factor of the public interest [33 CFR 320.4(a)]. This authority is invoked on a case-by-case basis whenever the Corps determines that the potential consequences of the proposal warrant Individual Permit review based on the concerns stated above. This authority may be invoked for projects with cumulative environmental impacts that are more than minimal or if there is a special resource or concern associated with a particular project that is not already covered by the remaining conditions of the PGP that warrants greater review. Whenever the Corps notifies an applicant that an Individual Permit may be required, authorization under this PGP is voided and no work may be conducted until the Corps Individual Permit is obtained or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under this PGP.
5. **Single and Complete Projects.** This PGP shall not be used for piecemeal work and shall be applied to single and complete projects. All components of a single project shall be treated together as constituting one single and complete project and/or all planned phases of a multi-phased project, unless the Corps determines that a component has independent utility. (The *Independent Utility* test is used to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.) For linear projects, such as transportation projects, power lines or pipelines with multiple crossings, the "single and complete project" (i.e., single and complete crossing) will apply to each crossing of a separate water of the U.S. (i.e., single waterbody) at that location and may be reviewed for eligibility under this PGP. However, individual channels in a braided stream or river, or individual arms of a large, irregularly-shaped wetland or lake, etc., are not separate waterbodies. If the total

impacts (sum of all crossings) exceed 5,000 s.f., the project will require a Category 2 review. This PGP shall not be used for any activity that is part of an overall project for which an Individual Permit is required, unless the Corps determines the activity has independent utility. NOTE: CT DEP will make their own determination of single and complete projects.

**6. Permit On-Site.** For Category 2 projects, the permittee shall ensure that a copy of this PGP and the accompanying authorization letter are at the work site (and the project office) authorized by this PGP whenever work is being performed, and that all personnel with operational control of the site ensure that all appropriate personnel performing work are fully aware of its terms and conditions. The entire permit authorization shall be made a part of any and all contracts and sub-contracts for work that affects areas of Corps jurisdiction at the site of the work authorized by this PGP. This shall be achieved by including the entire permit authorization in the specifications for work. The term "entire permit authorization" means this PGP and the authorization letter (including its drawings, plans, appendices and other attachments) and also includes permit modifications. If the authorization letter is issued after the construction specifications, but before receipt of bids or quotes, the entire permit authorization shall be included as an addendum to the specifications. If the authorization letter is issued after receipt of bids or quotes, the entire permit authorization shall be included in the contract or sub-contract as a change order. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions contained within the entire PGP authorization, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps jurisdiction.

### **National Concerns**

**7. Historic Properties.** Any activity authorized by this PGP shall comply with Section 106 of the National Historic Preservation Act. Information on the location and existence of historic resources can be obtained from the Connecticut Commission on Culture and Tourism, Historic Preservation and Museum Division, the National Register of Historic Places and the Tribal Historic Preservation Officer (THPO) of both the Mashantucket Pequot Tribe and the Mohegan Tribe. See Page 19 for historic properties contacts. Project proponents shall apply to the Corps for all projects that would otherwise qualify for Category 1 if there is the potential for an effect on a historic property within the permit area. These projects may be eligible under Category 2. Historic properties are those that are either listed or eligible for listing in the National Register of Historic Places. If the permittee, during construction of work authorized herein, encounters a previously unidentified archaeological or other cultural resource within the area subject to Department of the Army jurisdiction that might be eligible for listing in the National Register of Historic Places, he/she shall immediately notify the District Engineer.

**8. National Lands.** Activities authorized by this general permit shall not impinge upon the value of any National Wildlife Refuge, National Forest, or any other area administered by the U.S. FWS, U.S. Forest Service, or National Park Service.

**9. Endangered Species.** No activity authorized under this PGP may affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which is likely to destroy or adversely modify the critical habitat of such species, or which would result in a "take" of any threatened or endangered species of fish or wildlife, or which would result in any other violation of Section 9 of the ESA protecting threatened or endangered species of plants. Applicants shall notify the Corps if any listed species or critical habitat is in the vicinity of the project and shall not begin work until notified by the DE that the requirements of the ESA have been satisfied and that the activity is authorized. Information on the location of threatened and

endangered species and their critical habitat can be obtained from the U.S. FWS and the NMFS (See Page 19 for addresses).

**10. Essential Fish Habitat.** As part of the PGP screening process, the Corps will coordinate with the NMFS in accordance with the 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to protect and conserve the habitat of marine, estuarine and anadromous finfish, mollusks, and crustaceans. This habitat is termed "Essential Fish Habitat," (EFH) and is broadly defined to include "those waters and substrate necessary to fish for spawning, breeding, feeding and growth to maturity." All species managed under the MSA have had EFH designations. There are 61 species with EFH in the coastal waters of southern New England. Applicants may be required to describe and identify potential impacts to EFH. For instance, in Connecticut, this act protects Atlantic salmon (*Salmo salar*) habitat. Any work in the mainstem or tributary streams of the Connecticut River watershed that are being managed for Atlantic salmon may NOT be eligible for authorization under Category 1 of this PGP because the activity requires screening for potential impacts to designated EFH. Conservation recommendations regarding the protection of EFH for species managed under the MSA made by NMFS will normally be included as special conditions to any permit issued by the Corps. Information on the location of EFH can be obtained from NMFS. The NMFS has established a web site at [www.nero.nmfs.gov/RO/DOC/appguide1.html](http://www.nero.nmfs.gov/RO/DOC/appguide1.html).

**11. Wild and Scenic Rivers.** Any activity that occurs in a component of, or within 0.25 miles up or downstream of the main stem or tributaries of a river segment of the National Wild and Scenic River System, must be reviewed by the Corps under the procedures of Category 2 of this PGP regardless if it meets the Category 1 size of impact thresholds. This condition applies to both designated Wild and Scenic Rivers and rivers designated by Congress as study rivers for possible inclusion while such rivers are in an official study status. The Corps will consult with the National Park Service (NPS) with regard to potential impacts of the proposed activity on the resource values of the wild and scenic river. The culmination of this coordination will be a determination by the NPS and the Corps that the work: (1) may proceed as proposed; (2) may proceed with recommended conditions; or (3) could pose a direct and adverse effect on the resource values of the river, and an individual permit is required. If preapplication consultation between the applicant and the NPS has occurred whereby the NPS has made a determination that the proposed activity is appropriate for authorization under the PGP (with respect to wild and scenic river issues), this determination should be furnished to the Corps with submission of the application. (See NPS address on Page 19.) The National Wild and Scenic River System segment for Connecticut as of this date includes the Farmington River as follows: the 14-mile segment of the West Branch and main stem extending from immediately below the Goodwin Dam and Hydroelectric Project in Hartland Connecticut, to the downstream end of the New Hartford-Canton, Connecticut, town line and the Shepaug River. The Housatonic River and the Eight Mile River have been designated as Study Rivers.

**12. Federal Navigation Project.** Any structure or work that extends closer to the horizontal limits of any Corps navigation project than a distance of three times the project's authorized depth shall be subject to removal at the owner's expense prior to any future Corps dredging or the performance of periodic hydrographic surveys.

**13. Navigation.** (a) There shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein. (b) The permittee understands and agrees that, if future operations by the U.S. require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to

the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the U.S. No claim shall be made against the U.S. on account of any such removal or alteration.

**14. Federal Liability.** In issuing this permit, the Federal Government does not assume any liability for the following: (a) damages to the permitted project or uses thereof as a result of other permitted or non-permitted activities or from natural causes; (b) damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the U.S. in the public interest; (c) damages to persons, property, or to other permitted or non-permitted activities or structures caused by the activity authorized by this permit; (d) design or construction deficiencies associated with the permitted work; (e) damage claims associated with any future modification, suspension, or revocation of this permit.

#### **Minimization and Mitigation of Environmental Impacts**

**15. Minimization.** Discharges of dredged or fill material into waters of the U.S., including wetlands, shall be avoided and minimized to the maximum extent practicable. Permittees may only fill those jurisdictional wetlands that the Corps authorizes to be filled and impact those wetlands that the Corps authorizes as secondary impacts. Mitigation for impacts to those wetlands may be required on a case-by-case basis. For coastal structures such as piers and docks, the height above the marsh at all points should be equal to or exceed the width of the deck. The height shall be measured from the marsh substrate to the bottom of the longitudinal support beam. This will help ensure sunlight reaches the area beneath the structure.

**16. Heavy Equipment in Wetlands.** Heavy equipment other than fixed equipment (drill rigs, fixed cranes, etc.) working within wetlands shall not be stored, maintained or repaired in wetlands, unless it is less environmentally damaging to do so. Heavy equipment operation within wetlands shall be minimized, and shall either have low ground pressure (<3 psi), or shall not be located directly on wetland soils and vegetation. Equipment shall be placed on swamp or timber mats that are adequate to support the equipment in such a way as to minimize disturbance of wetland soil and vegetation. (See **General Condition 17** below.) Other support structures that are less impacting and are capable of safely supporting equipment may be used with written Corps authorization. Similarly, not using mats during frozen, dry or other conditions may be allowed with written Corps authorization. An adequate supply of spill containment equipment shall be maintained on site.

Note: "Swamp mats" is a generic term used to describe structures that distribute equipment weight to prevent wetland damage while facilitating passage and providing work platforms for workers and equipment. They are comprised of sheets or mats made from a variety of materials in various sizes, and they include large timbers bolted or cabled together (timber mats). Corduroy roads, which are not considered to be swamp mats, are cut trees and/or saplings with the crowns and branches removed, and the trunks lined up next to one another.

**17. Temporary Fill.** Fill placed into waters of the U.S. (including wetlands) totaling greater than or equal to 5,000 square feet in total area (i.e., the sum of permanent and temporary fill areas) exceeds the Category 1 threshold and may not be discharged without written authorization from the Corps. When temporary fill is used (e.g., access roads, swamp mats, cofferdams), it shall be stabilized and maintained during construction in such a way as to prevent its eroding into portions of waters of the U.S. where it is not authorized. Swamp or timber mats (see 16 above) are considered as temporary fill when they are removed immediately upon work completion. The area must be restored in accordance with **General Condition 18** below.

- Unconfined temporary fill authorized for discharge into flowing water (rivers and streams) shall consist only of clean stone.
- Temporary fill authorized for discharge into wetlands shall be placed on geotextile fabric laid on the pre-construction wetland grade. (Swamp and timber mats are excluded from this requirement.)
- Temporary fill shall be removed as soon as it is no longer needed, and it shall be disposed of at an upland site and suitably contained to prevent its subsequent erosion into waters of the U.S.
- Waters of the U.S. where temporary fill was discharged shall be restored (see Condition 18).
- If temporary fill is staged and then returned to its original location, e.g., sewer projects through wetlands, the original location shall be restored.
- No temporary work shall drain a water of the U.S. by providing a conduit for water on or below the surface.

#### **18. Restoration of Inland Wetland Areas.**

- Upon completion of construction, all disturbed wetland areas (the disturbance of these areas must be authorized) shall be stabilized with a wetland seed mix containing only plant species native to New England.
- The introduction or spread of invasive plant species in disturbed areas shall be controlled.
- In areas of authorized temporary disturbance, if trees are cut they shall be cut at ground level and not uprooted in order to prevent disruption to the wetland soil structure and to allow stump sprouts to revegetate the work area, unless otherwise authorized.
- Wetland areas where permanent disturbance is not authorized shall be restored to their original condition and elevation, which under no circumstances shall be higher than the pre-construction elevation. Original condition means careful protection and/or removal of existing soil and vegetation, and replacement back to the original location such that the original soil layering and vegetation schemes are approximately the same, unless otherwise authorized.

**19. Coastal Bank Stabilization.** Projects involving construction or reconstruction/maintenance of bank stabilization structures within Corps jurisdiction should be designed to minimize environmental effects, effects to neighboring properties, scour, etc. to the maximum extent practicable. For example, vertical bulkheads should only be used in situations where reflected wave energy can be tolerated. This generally eliminates bodies of water where the reflected wave energy may interfere with or impact on harbors, marinas, or other developed shore areas. A revetment is sloped and is typically employed to absorb the direct impact of waves more effectively than a vertical seawall. It typically has a less adverse effect on the beach in front of it, abutting properties and wildlife. For more information on this topic, go to the Corps Coastal Engineering Manual (supersedes the Shore Protection Manual), located at <http://chl.erdc.usace.army.mil>. Select "Products/ Services," "Publications." Part 5, Chapter 7-8, a (2) c is particularly relevant.

**20. Sedimentation and Erosion Control.** Adequate sedimentation and erosion control management measures, practices and devices, such as phased construction, vegetated filter strips, geotextile silt fences, hay bales or other devices, shall be installed and properly maintained to reduce erosion and retain sediment on-site during and after construction. These measures shall be capable of preventing erosion, of collecting sediment, suspended, and floating materials, and of filtering fine sediment. These devices shall be removed upon completion of work and the disturbed areas shall be stabilized. The sediment collected by these devices shall be removed and placed at an upland location, in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date.

## **21. Waterway Crossings.**

- (a) All temporary and permanent crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed to withstand and to prevent the restriction of high flows, and to maintain existing low flows, and so as not to obstruct the movement of aquatic life indigenous to the waterbody beyond the actual duration of construction.
- (b) Open bottom arches, bridge spans or embedded culverts are generally preferred over traditional culverts and are required for Category 1/non-reporting projects. However, site constraints (e.g., placing footings) may make use of an open bottom arch, bridge span or embedded culverts impractical, and in these cases well-designed culverts may actually perform better. Project proponents shall consult with the Corps if an open bottom arch, bridge span or embedded culvert is impractical.
- (c) No projects involving open trench excavation in flowing waters are allowed in Category 1. However, open trench excavation projects may qualify for Category 1 provided they utilize management techniques such as temporary flume pipes, culverts, cofferdams, etc. and maintain normal flows within the stream boundary's confines so the work does not occur in flowing waters. Projects utilizing these management techniques must meet the other Category 1 requirements and all of this PGP's terms and conditions. If not, they will require review under the Category 2 screening procedures.
- (d) Temporary bridges, culverts, or cofferdams shall be used for equipment access across streams. (Note: areas of fill and/or cofferdams must be included in total waterway/wetlands impacts to determine applicability of this PGP).
- (e) Projects using slip lining (retrofitting an existing culvert by inserting a smaller diameter pipe), plastic pipes, and High Density Polyethylene Pipes (HDPP) are not allowed as non-reporting Category 1 activities, either as new work or maintenance activities.
- (f) For projects that otherwise meet the terms of Category 1, unconfined in stream construction work shall be conducted during the low flow period July 1 through September 30 in any year except in instances where a specific written exception has been issued by the Connecticut Department of Environmental Protection. All other projects shall be screened pursuant to Category 2, regardless of the waterway and wetland fill and/or impact area.
- (g) All temporary fill must be removed as soon as it is no longer needed and all disturbed areas must be returned to their pre-construction conditions

**22. Discharge of Pollutants.** All activities involving any discharge of pollutants into waters of the U.S. authorized under this PGP shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the CWA (33 U.S.C. 1251), and applicable state and local laws. If applicable water quality standards, limitations, etc., are revised or modified during the term of this permit, the authorized work shall be modified to conform with these standards within 6 months of the effective date of such revision or modification, or within a longer period of time deemed reasonable by the District Engineer in consultation with the Regional Administrator of the EPA. Applicants may presume that state water quality standards are met with issuance of the Section 401 WQC (Applicable only to the Section 404 activity).

**23. Spawning Areas.** Discharges of dredged or fill material, and/or suspended sediment-producing activities in fish and shellfish spawning or nursery areas and amphibian and waterfowl breeding areas shall be avoided. During all times of year, impacts to these areas shall be avoided to the maximum extent practicable.

**24. Storage of Seasonal Structures.** Coastal structures, such as pier sections and floats, that are removed from the waterway for a portion of the year (often referred to as seasonal structures) shall be stored in an upland location, located above mean high water (MHW) and **not** in tidal wetlands. These seasonal structures may be stored on the fixed, pile-supported portion of the structure that is seaward of MHW. This is intended to prevent structures from being stored on the marsh substrate and the substrate seaward of MHW.

**25. Environmental Functions and Values.** The permittee shall make every reasonable effort to carry out the construction or operation of the work authorized herein in a manner so as to maintain as much as is practicable, and to minimize any adverse impacts on, existing fish, and wildlife, and natural environmental values and to discourage the establishment or spread of plant species identified as non-native invasive species by any federal or state agency.

**26. Protection of Vernal Pools.** Impacts to uplands in proximity (within 500 feet) to the vernal pools referenced in Appendices A & B - Definitions of Categories, shall be minimized to the maximum extent possible.

### **Procedural Conditions**

**27. Inspections.** The permittee shall allow the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary in order to ensure that the work is being performed in accordance with the terms and conditions of this permit. The District Engineer may also require post-construction engineering drawings for completed work, and post-dredging survey drawings for any dredging work.

**28. Work Start Notification Form and Compliance Certification.** Every permittee who receives a written Category 1 or 2 PGP authorization from the Corps must submit a 1) Work Start Notification Form (WSNF) two weeks before work commencement, and 2) signed Compliance Certification Form (CCF) within one month following the completion of the authorized work and any required mitigation (but not mitigation monitoring, which requires separate submittals). The Corps will forward the blank WSNF and CCF with the authorization letter. The CCF will include: (a) a statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions; (b) a statement that any required mitigation was completed in accordance with the permit conditions; and (c) the signature of the permittee certifying the completion of the work and mitigation.

**29. Maintenance.** The permittee shall maintain the activity authorized by this PGP in good condition and in conformance with the terms and conditions of this permit. This does not include maintenance of dredging projects. Maintenance dredging is subject to the review thresholds in the List of Categories sheets (attached) and/or any conditions included in a written Corps authorization. Maintenance dredging includes only those areas and depths previously authorized and dredged. Some maintenance activities may not be subject to regulation under Section 404 in accordance with 33 CFR 323.4(a) (2). Information on mosquito ditching and maintenance is provided at [www.nae.usace.army.mil](http://www.nae.usace.army.mil). Go to "Regulatory/Permitting," and then "Other."

**30. Property Rights.** This permit does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of federal, state, or local laws or regulations.



**31. Modification, Suspension, and Revocation.** This permit may either be modified, suspended, or revoked in whole or in part pursuant to the policies and procedures of 33 CFR 325.7; and any such action shall not be the basis for any claim for damages against the United States.

**32. Restoration.** The permittee, upon receipt of a notice of revocation of authorization under this permit, shall restore the wetland or waterway to its former conditions, without expense to the United States and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.

**33. Special Conditions.** The Corps may impose other special conditions on a project authorized pursuant to this general permit that are determined necessary to minimize adverse environmental effects or based on any other factor of the public interest. These may be based on concerns from CT DEP or Federal resource agency. Failure to comply with all conditions of the authorization, including special conditions, will constitute a permit violation and may subject the permittee to criminal, civil, or administrative penalties or restoration.

**34. False or Incomplete Information.** If the Corps makes a determination regarding the eligibility of a project under this permit, and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the permittee, the permit will not be valid, and the U.S. government may institute appropriate legal proceedings.

**35. Abandonment.** If the permittee decides to abandon the activity authorized under this general permit, unless such abandonment is merely the transfer of property to a third party, he/she may be required to restore the area to the satisfaction of the DE.

**36. Enforcement cases.** This PGP does not apply to any existing or proposed activity in Corps jurisdiction associated with an on-going Corps or EPA enforcement action, until such time as the enforcement action is resolved or the Corps determines that the activity may proceed independently without compromising the enforcement action.

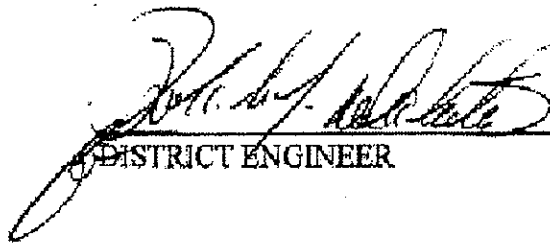
#### **Duration of Authorization/Grandfathering:**

**37. Duration of Authorization.** This PGP expires five years from the effective date listed at the top of Page 1. Activities authorized under Category 1 of this PGP that have commenced (i.e., are under construction) or are under contract to commence in reliance upon this authorization will remain authorized provided the activity is completed within twelve months of the date of this PGP's expiration date. Activities authorized under Category 2 of this PGP will remain authorized in accordance with the project-specific date that the Corps provides to the permittee in the PGP authorization letter, unless: (a) the PGP is either modified or revoked, or (b) discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 325.2(e)(2). The permittee must be able to document to the Corps satisfaction that the project was under construction or contract by the appropriate date. Activities completed under the Category 1 or Category 2 authorizations of this PGP will continue to be authorized by this PGP after its expiration date.

Activities authorized under Category 2 of this PGP (or by an Individual Permit) for the transport of dredged or fill material for the purpose of disposing of it in open waters will specify a completion date for the disposal not to exceed three years from the date of authorization.

**38. Previously Authorized Activities:**

- (a) Activities completed under the authorizations of past PGPs that were in effect at the time the activity was completed will continue to be authorized by those PGPs.
- (b) Projects that have received written verification or approval from the Corps, based on applications made to the Corps prior to issuance of this PGP, regional general permits, or letters of permission shall remain authorized as specified in each authorization.
- (c) Activities authorized pursuant to 33 CFR Part 330.3 ("Activities occurring before certain dates") are not affected by this PGP.



DISTRICT ENGINEER

5/31/06

DATE

## **VI. CONTACTS FOR CT PROGRAMMATIC GENERAL PERMIT:**

### **1. FEDERAL**

*U.S. Army Corps of Engineers*  
New England District, Regulatory Division  
696 Virginia Road  
Concord, Massachusetts 01742-2751  
(800) 343-4789 or (978) 318-8335  
(978) 318-8303 - fax

*Federal Endangered Species:*  
U.S. Fish and Wildlife Service  
P.O. Box 307  
Charlestown, Rhode Island 02813  
(401) 364-9124

*Department of Agriculture*  
Bureau of Aquaculture  
P. O. Box 97  
190 Rogers Avenue  
Milford, Connecticut 06460

### **2. STATE OF CONNECTICUT**

*CT Department of Environmental Protection*  
Bureau of Water Management

Long Island Sound Programs  
79 Elm Street  
Hartford, Connecticut 06106-5127  
(860) 424-3034

Inland Water Resources Division  
79 Elm Street  
Hartford, Connecticut 06106-5127  
(860) 424-3019

### **3. HISTORIC PROPERTIES**

*Tribal Historic Preservation Officers*  
Mashantucket Pequot Tribal Historic Pres. Officer  
Ms. Theresa Hayward-Bell, THPO  
Mashantucket Pequot Museum & Research Center  
110 Pequot Trail  
Mashantucket, Connecticut 06339

*Archaeological Information*  
Connecticut Commission on Culture and Tourism  
Historic Preservation & Museum Division  
59 South Prospect Street  
Hartford, Connecticut 06106  
(860) 424-3005

*National Park Service*  
North Atlantic Region  
15 State Street  
Boston, Massachusetts 02109  
(617) 223-5203

*Federal Endangered Species & EFH*  
National Marine Fisheries Service  
Habitat Division  
212 Rogers Avenue  
Milford, Connecticut 06460  
(203) 882-6504

Regional EFH Coordinator  
National Marine Fisheries Service  
One Blackburn Drive  
Gloucester, MA 01930  
Phone: (978) 281-9102  
(978) 281-9301 - fax

(State Endangered Species)  
Dept. of Environmental Protection  
Bureau of Natural Resources  
Wildlife Division  
Natural Diversity Data Base  
79 Elm Street  
Hartford, Connecticut 06106-5127  
(860) 424-3011

Mohegan Tribe Cultural Department  
5 Crow Hill Road  
Uncasville, Connecticut 06382

## APPENDIX A

### U. S. ARMY CORPS OF ENGINEERS, NEW ENGLAND DISTRICT PROGRAMMATIC GENERAL PERMIT STATE OF CONNECTICUT

#### CATEGORIES FOR WORK IN WATERS OF THE U.S. <sup>(1)(2)</sup>

##### INLAND WATERS AND WETLANDS

**Inland Waters and Wetlands:** Waters that are regulated under Section 404 of the Clean Water Act, including rivers, streams, lakes, ponds and wetlands, and excluding Section 10 Navigable Waters of the U.S. <sup>(3)</sup> The jurisdictional limits are the ordinary high water (OHW) mark in the absence of adjacent wetlands, beyond the OHW mark to the limit of adjacent wetlands when adjacent wetlands are present, and the wetland limit when only wetlands are present. For the purposes of this PGP, fill placed in the area between the mean high water (MHW) and the high tide line (HTL), and in the bordering and contiguous wetlands to tidal waters are reviewed in the Tidal, Coastal and Navigable Waters section. (See Appendix B.)

Activities must be conducted consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control (DEP Bulletin 34) and the 2004 Connecticut Stormwater Quality Manual.

See the last page of this matrix for footnote definitions.

## CATEGORY 1

Unconfined in-stream work, including construction, installation or removal of cofferdam structures or placement of fill, is limited to the period July 1 through September 30 except in instances where a specific written exception has been issued by the CT DEP.

### 1. A. NEW FILL/ EXCAVATION DISCHARGES WITHIN WATERS OF THE U.S.<sup>(1)</sup>

Less than 5,000 SF of Inland Waters, Waterway and/or Wetland Fill and Secondary Impacts. Fill impacts include all temporary and permanent fill and excavation discharges resulting from a single and complete project, see #5 of General Requirements. Secondary impacts include but are not limited to impacts to inland waters, waterways or wetlands drained, dredged, flooded, cleared or degraded resulting from a single and complete project. (See 40 CFR 230.11 (g) and (h))

#### Activities Eligible for Authorization under Category 1:

**Utility Line Right-of-Way Crossings.** These must be constructed as follows:

- when trenching, the uppermost 12 inches of the trench is backfilled to the original grade with native soil or streambed material, as appropriate, of the same nature, type and characteristics as the adjacent soil or streambed material, and
- the right-of-way is managed to prevent the introduction, establishment, or spread of plant species determined by the CT Invasive Plants Council to be invasive or potentially invasive.  
[http://invasives.eeb.uconn.edu/ipane/ipanespecies/current\\_inv.htm](http://invasives.eeb.uconn.edu/ipane/ipanespecies/current_inv.htm)

**Driveway/Roadway Crossings.** The following are required for driveway/roadway crossings constructed on brooks, streams, rivers and their tributaries. These provisions do not apply to crossings of drainage ditches or waters with no definable channel.

- **Driveway crossings using a bridge or open-bottom structure must:**
  - span at least 1.2 times the watercourse bank full width,
  - have an openness ratio<sup>(7)</sup> equal to or greater than 0.25 meters, and
  - allow for continuous flow of the 50-year frequency storm flows
- **Roadway crossings using a bridge or open-bottom structure must:**
  - follow the above 3 requirements for driveway crossings, and
  - have a riparian bank on one or both sides for wildlife passage.
- **Driveway or Roadway crossings using a culvert provided:**
  - the tributary watershed to the culvert is  $\leq 1.0$  sq. mile (640 acres),
  - the culvert gradient (slope) is no steeper than the streambed gradient immediately upstream or downstream of the culvert,
  - for a crossing constructed using a single box or pipe arch culvert, the inverts are set  $\geq 12$  inches below the streambed elevation,
  - for a crossing constructed using multiple box or pipe arch culverts, the inverts of one of the boxes or pipe arch culverts are set  $\geq 12$  inches below the elevation of the streambed,
  - for a crossing constructed using a pipe culvert, the inverts are set such that  $\geq 25\%$  of the pipe or  $12''$ , whichever is less, is set below the streambed elevation,
  - the culvert is backfilled with natural substrate material matching upstream and downstream streambed substrate,
  - the structure does not otherwise impede the passage of fish and other aquatic organisms, and
  - the structure allows for continuous flow of the 50-year frequency storm flows

#### Projects including any of the following Activities are NOT ELIGIBLE for AUTHORIZATION under Category 1:

Piping, boxing, enclosing or covering of inland waters or waterway for other than a driveway or roadway crossing.

Projects with direct or secondary impact(s) to:

- Special Wetlands<sup>(8)</sup> (Work within 500 feet of vernal pools shall be minimized.)
- Threatened, Endangered, or Special Concern Species<sup>(9)</sup>  
<http://www.dep.state.ct.us/>
- Significant Natural Communities<sup>(6)</sup> identified by the CT Natural Diversity Database <http://www.dep.state.ct.us/>

Projects with a dam, dike, levee, water impounding, water diversion structure or other activities regulated by the CT DEP under CT General Statutes Sections 22a-368 (Water Diversion Policy Act) or 22a-403 (Dam Construction).

Projects with fill placed within a FEMA established floodway.  
<http://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>

Projects with fill placed within a FEMA established floodplain that would adversely affect the hydraulic characteristics of the floodplain.<sup>(8)</sup>

Projects with detention or retention of storm water in inland waters, waterways or wetlands including:

- roadway or driveway crossing that by design or default function to provide storm water detention or
- retention in inland waters, waterway or wetland, or construction of storm water detention or retention basin in inland waters, waterway or wetland.

Projects occurring in a segment of a National Wild and Scenic River System or within 0.25 mile upstream or downstream of the main stem or tributaries of a National Wild and Scenic River System segment. <http://www.nps.gov/rivers/>

**NOTE:** In instances where it is determined that it is not practicable to construct a roadway or driveway crossing consistent with the standards, the crossing may be authorized as a Cat. 1 project provided that the crossing is constructed in a manner that minimizes impediments to fish and aquatic life passage to the greatest extent practicable. A mere showing of expense will not necessarily determine that compliance with the standards is not practicable. Proponents must submit plans and documentation to the Corps and CT DEP for consideration and must receive written authorization prior to the commencement of construction.

1. B. STREAM BANK STABILIZATION PROJECTS WITHIN WATERS OF THE U. S. (1)

Activities Eligible for Authorization under Category 1:

Stream Bank Stabilization  $\leq$  200 feet in length with:

- an average of 1 cubic yard of fill or less per linear foot below ordinary high water
- no fill within the streambed beyond the toe of slope of the stream bank, and
- work limited to July 1 through September 30.

NOTE: Length is defined as the sum of the lengths of bank stabilization work along each bank of an inland water or waterway.

Projects including any of the following Activities Are NOT ELIGIBLE for AUTHORIZATION under Category 1:

Project with direct or secondary impacts to:

- Special Wetlands (5) (Work within 500 feet of vernal pools shall be minimized)
- Threatened, Endangered, or Special Concern Species (6)
- Significant Natural Communities (6) identified by the CT Natural Diversity Database

Channeling or relocating inland waters or waterway.

Project with fill placed within any wetland, streambed, or FEMA established floodway.

<http://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>

Projects occurring in a segment of a National Wild and Scenic River System or within 0.25 mile upstream or downstream of the main stem or tributaries of a National Wild and Scenic River System segment. <http://www.nps.gov/rivers/>

# 1. C. REPAIR AND MAINTENANCE WORK WITHIN WATERS OF THE U. S.<sup>(4)</sup>

Total impacts (direct and secondary) not to exceed 5,000 square feet – (See 1.A. for definition)

## Activities Eligible for Authorization under Category 1:

Repair or maintenance of existing, currently serviceable, authorized fills, provided:

- No change in use.
- Conditions of the original authorization apply. However, minor deviations in fill design allowed.

Replacement of existing DRIVEWAY crossings using a bridge or open-bottom structure must:

- Span at least 1.2 times the watercourse bank full width,
- Have an openness ratio <sup>(7)</sup> equal to or greater than 0.25 meters,
- Allow for continuous flow of the 50-year frequency storm flows
- Not result in a change in the normal surface elevation of the upstream waters, waterway or wetland.

Replacement of existing ROADWAY crossing using a bridge or open-bottom structure must:

- Follow the above 4 requirements for driveway crossings, and
- Have a riparian bank on one or both sides for wildlife passage,

Replacement of an existing Driveway or Roadway crossing constructed using a culvert, provided:

- the tributary watershed to the culvert is  $\leq 1.0$  square mile (640 acres),
- the culvert gradient (slope) is no steeper than the streambed gradient immediately upstream or downstream of the culvert,
- for a crossing constructed using a single box or pipe arch culvert, the inverts are set  $\geq 12$  inches below the elevation of the streambed,
- for a crossing constructed using multiple box or pipe arch culverts, the inverts of one of the boxes or pipe arch culverts are set  $\geq 12$  inches below the elevation of the streambed,
- for a crossing constructed using a pipe culvert, the inverts are set such that  $\geq 25\%$  of the pipe or 12", whichever is less, is set below the elevation of the streambed,
- the culvert is backfilled with natural substrate material matching upstream and downstream streambed substrate,
- the structure does not otherwise impede the passage of fish and other aquatic organisms, and
- the structure allows for continuous flow of the 50-year frequency storm flows

Replacement of a Utility Line within an Existing Right-of-Way Crossing, provided:

- no horizontal expansion or impacts beyond previously cleared areas,
- no open trench excavation w/in flowing waters w/out management techniques as stated in Special Condition 21 (c)
- when trenching, the uppermost 12 inches of the trench is backfilled with native soil or streambed material, as appropriate, of the same nature, type and characteristics as the adjacent soil or streambed material,
- the CT Natural Diversity Database confirms in writing that there are no known endangered, threatened or special concern species that would be adversely impacted, and
- the right-of-way is managed to prevent the introduction, establishment, or spread of plant species determined by the CT Invasive Plants Council to be invasive or potentially invasive.

[http://invasives.eeb.uconn.edu/ipane/ctcouncil/CT\\_Invasive\\_Plant\\_List.htm](http://invasives.eeb.uconn.edu/ipane/ctcouncil/CT_Invasive_Plant_List.htm)

Projects including any of the following Activities are **NOT ELIGIBLE** for AUTHORIZATION under Category 1:

Projects with direct or secondary impacts to:

- Special Wetlands <sup>(5)</sup>. (Work within 500 feet. of vernal pools shall be minimized)
- Threatened, Endangered, or Special Concern Species <sup>(6)</sup>
- Significant Natural Communities <sup>(6)</sup> identified by the CT Natural Diversity Database <http://www.dep.state.ct.us/>

Projects with fill placed within a FEMA established floodway.

<http://msc.fema.gov/webapp/wcs/storeservlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>

Projects with fill placed within a FEMA established floodplain that would adversely affect the hydraulic characteristics of the floodplain.<sup>(8)</sup>

Projects occurring in a segment of a National Wild and Scenic River System or within 0.25 mile upstream or downstream of the main stem or tributaries of a National Wild and Scenic River System segment.

<http://www.nps.gov/rivers/>

**NOTE:** In instances where it is determined that it is not practicable to construct a roadway or driveway crossing consistent with the standards, the crossing may be authorized as a Category 1 project provided that the crossing is constructed in a manner that minimizes impediments to fish and aquatic life passage to the greatest extent practicable. A mere showing of expense will not necessarily determine that compliance with the standards is not practicable. Documentation and plans are to be submitted to the Corps and CT DEP for consideration and written authorization must be issued prior to the commencement of construction.

**NOTE:** Replacement of utility line projects with impacts solely within wetlands greater than 5,000 SF may be eligible for Category 1 authorization provided the standards are met. Replacement of utility line projects involving stream crossings with impacts over 5,000 SF must be screened under Category 2.

## CATEGORY 2 (Screening)

Time of year restrictions on activities will be determined case-by-case.

Unconfined in-stream work, including construction, installation or removal of cofferdam structures or placement of fill, is limited to the period July 1 - Sept. 30, unless otherwise specifically authorized in the written approval of coverage issued by the Corps of Engineers.

**2. A. NEW FILL/EXCAVATION DISCHARGES WITHIN WATERS OF THE U. S.<sup>(1)</sup>** 5,000 SF to 1 acre Inland Waters, Waterway and/or Wetland Fill and Secondary Impacts. Fill impacts include all temporary and permanent fill and excavation discharges resulting from a single and complete project. Secondary impacts include, but are not limited to impacts to inland waters, waterways or wetlands drained, dredged, flooded, cleared or degraded resulting from a single and complete project. (See 40 CFR 230.11 (g) and (h))

### Activities Eligible for Authorization under Category 2:

Utility Line Right-of-Way Crossing provided the construction adheres to the following standard:

- when trenching, the uppermost 12 inches of the trench is backfilled with native soil or streambed material, as appropriate, consistent with the adjacent soil or streambed material, and
- the right-of-way is managed to prevent the introduction, establishment, or spread of plant species determined by the Connecticut Invasive Plants Council to be invasive or potentially invasive.  
[http://invasives.eeb.uconn.edu/ipane/ctcouncil/CT\\_Invasive\\_Plant\\_List.htm](http://invasives.eeb.uconn.edu/ipane/ctcouncil/CT_Invasive_Plant_List.htm)

The following provisions apply to Driveway/Roadway Crossings constructed on brooks, streams, rivers and their tributaries. These provisions do not apply to crossings of drainage ditches or waters with no definable channel.

**Roadway or Driveway Crossing Constructed using a Bridge or Open-bottom Structure that:**

- allows for the continuous flow of the 50-year frequency storm flows
- spans at least 1.2 times the watercourse bank full width, and
- has an openness ratio<sup>(7)</sup> greater than or equal to 0.25 meters.

**Roadway or Driveway Crossing Constructed using a Culvert provided that:**

- the use of a bridge or open-bottom structure is determined to be not practicable,
- for a crossing constructed with a single box or pipe arch culvert, the inverts are set at least 12 inches below the elevation of the natural streambed,
- for a crossing constructed with multiple box or pipe arch culverts, the inverts of one of the boxes or pipe arch culverts are set at least 12 inches below the elevation of the natural streambed,
- for a crossing constructed with a pipe culvert, the inverts are set such that at least 25% of the pipe, or 12", whichever is less, is set below the elevation of the natural stream bed,
- the culvert is backfilled with natural substrate material matching upstream and downstream substrate,
- the structure allows for continuous flow of the 50-year frequency storm flows
- there is no practicable alternative location for the crossing that would have less environmental impacts.

Projects with any of the following Activities are NOT ELIGIBLE for AUTHORIZATION under Category II - Individual Permit Required.

Piping, boxing, or other enclosing or covering of inland waters or waterway for other than a driveway or roadway crossing.

Projects with fill placed within a FEMA established floodway.  
<http://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>

Projects with fill placed within a FEMA established floodplain that would adversely affect the hydraulic characteristics of the floodplain.<sup>(8)</sup>

Detention or retention of storm water in inland waters, waterway or wetland including:

- roadway or driveway crossings that by design or default function to provide storm water detention or retention in inland waters, waterway or wetland, or
- construction of storm water detention or retention basins in inland waters, waterway or wetland.

**NOTE:** In instances where it is determined by the agencies that it is not practicable to construct a roadway or driveway crossing consistent with the standards, the crossing may be authorized as a Category 2 project provided that the crossing is constructed in a manner that minimizes impediments to fish and aquatic life passage to the greatest extent practicable. A mere showing of expense will not necessarily determine that compliance with the standards is not practicable. Documentation should be submitted with the Category 2 application package.

**NOTE:** Work and/or construction within 250 feet of vernal pools may require Individual Permit review and will be decided on a case-by-case basis.



2. B. BANK STABILIZATION PROJECT WITHIN WATERS OF THE U. S. (1)

Activities Eligible for Authorization under Category 2:

Stream Bank Stabilization Exceeding 200 ft. in length provided there is less than an average of 1 cubic yard of fill per linear foot below ordinary high water.

NOTE: Length is defined as the sum of the lengths of bank stabilization work along each bank of an inland water or waterway.

Projects/Activities NOT ELIGIBLE for AUTHORIZATION under Category 2 - Individual Permit Required.

Channeling or relocating inland waters or waterway.

Projects with fill placed within a FEMA established floodway.

<http://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>

Projects with fill placed within a FEMA established floodplain that would adversely affect the hydraulic characteristics of the floodplain.(8)

2. C. REPAIR & MAINTENANCE WORK WITHIN WATERS OF THE U. S. (1)

Activities Eligible for Authorization under Category 2:

Replacement of Non-Serviceable Fills, or Repair or Maintenance of Serviceable Fills with horizontal expansion of up to 1 acre, or charge in use.

NOTE: The 1 acre impact limitation applies to all activities below.

Replacement of an Existing Roadway or Driveway Culvert Crossing provided that:

- the existing culvert is replaced using a box or pipe arch culvert,
- the invert elevation is set at least 12 inches below the elevation of the natural streambed,
- the culvert is backfilled with natural substrate material matching upstream and downstream substrates,
- the culvert has an openness ratio(7) equal to or greater than 0.25 meters
- the structure does not impede the passage of fish and other aquatic organisms,
- the structure does not result in a change in the normal surface elevation of the upstream waters, waterway or wetland, and
- the structure allows for continuous flow of the 50-year frequency storm flows

Discharge of fill in conjunction with the Excavation of an Existing Pond/Lake provided that:

- there is no horizontal expansion of the pond,
- excavation is limited to restoring the pond basin to its original contours through the removal of accumulated material,
- excavated material is disposed outside of inland waters, waterways, wetlands and floodplains,
- the area being dredged is physically isolated from adjoining areas of flowing water,
- best management practices are employed to avoid creating erosion, sedimentation or water quality degradation during excavation and during any period of dewatering and refilling,
- adequate littoral zones are maintained to provide habitat suitable for supporting fish and other aquatic life, and
- during the period of refilling, downstream flow is maintained consistent with the stream flow standards established by the State of Connecticut DEP, as amended.

NOTE: Existing pond/lake excavation projects with impacts exceeding 1 acre are eligible for Category 2 authorization provided the above standards are met.

Projects with any of the following Activities are NOT ELIGIBLE for AUTHORIZATION under Category 2 - Individual Permit Required.

Project with fill placed within a FEMA established floodway.

<http://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>

Project with fill placed within a FEMA established floodplain that would adversely affect the hydraulic characteristics of the floodplain.(8)

NOTE: In instances where it is determined by the agencies that it is not practicable to construct a roadway or driveway crossing consistent with the standards, the crossing may be authorized as a category 2 project provided that the crossing is constructed in a manner that minimizes impediments to fish and aquatic life passage to the greatest extent practicable. A mere showing of expense will not necessarily determine that compliance with the standards is not practicable. Documentation should be submitted with the Category 2 application package.

2. D. WETLAND OR STREAM RESTORATION PROJECTS WITHIN WATERS OF THE U. S.<sup>(1)</sup>

Activities Eligible for Authorization: under Category 2

Inland Water, Waterway, Wetland or Stream Restoration Project sponsored or administered by a federal or state environmental agency provided that impacts to aquatic resources are minimal and there is a planning review component to the project that includes representation on a screening committee from all involved federal and state agencies.

**NOTE:** Such restoration projects with any amount of impact may be screened for eligibility under Category 2. The Corps, in consultation with State and Federal agencies, must determine that net adverse effects are minimal.

2 E. MISCELLANEOUS PROJECTS WITHIN WATERS OF THE U. S.<sup>(1)</sup>

Activities Eligible for Authorization under Category 2

Less than one acre of Inland Waters, Waterway and/or Wetland Fill, and Secondary Impacts that are not defined under any of the previous categories.

Fill impacts include all temporary and permanent fill and excavation discharges result from a single and complete project. Secondary impacts include but are not limited to impacts to inland waters, waterways or wetlands drained, flooded, cleared or degraded resulting from a single and complete project. (See 40 CFR 230.11 (g) and (h))

Project with any of the following Activities are NOT ELIGIBLE for Authorization under Category 2 - Individual Permit Required:

Project with fill placed within a FEMA established floodway.

<http://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>

Project with fill placed within a FEMA established floodplain that would adversely affect the hydraulic characteristics of the floodplain.<sup>(2)</sup>

Detention or retention of storm water in inland waters, waterway or wetland

## DEFINITIONS

- (1) Waters of the U. S.: Inland rivers, streams, brooks, lakes, ponds and wetlands. [Refer to Title 33 CFR 328 and Section 1362 Federal Clean Water Act]
- (2) Navigable Waters: Waters that are subject to the ebb and flow of the tide, and Federally designated navigable waters which in Connecticut includes the Connecticut River to the Massachusetts state line. [Refer to Title 33 CFR Part 329 and Section 1362 Federal Clean Water Act]
- (3) Connecticut Department of Environmental Protection and Connecticut Municipal Inland Wetlands Agency Authorizations:
- Inland Wetlands and Watercourses Act, CGS Sections 22a-36 through 22a-45(a)
  - Connecticut Water Diversion Policy Act, CGS 22a-365 through 22a-378a
  - Stream Channel Encroachment Lines, CGS 22a-342 through 22a-349(a)
  - Dam Construction, CGS 22a-401 through 22a-411
  - Aquaculture Operations: The Connecticut Department of Agriculture has exclusive authority for granting or denying permits under the above regulatory programs for aquaculture operations.
- (4) Special Aquatic Sites: Include wetlands (inland and salt marsh), mud flats, vegetated shallows (permanently inundated areas that support rooted aquatic vegetation such as eel grass, celery grass, and tape grass), coral reefs, and riffle and pool complexes. [Refer to 40 CFR Part 230 Subpart E]
- (5) Special Wetlands: Include vernal pools, bogs, fens, cedar swamps, spruce swamps, calcareous seepage swamps, and wetlands which provide habitat for threatened or endangered species or species of special concern as designated by the State of Connecticut Natural Diversity Database. The following definitions for bogs, calcareous seepage wetlands, cedar swamps, fens, spruce swamps, and vernal pools apply for the purposes of this PGP:
- Bog:** a peat accumulating wetland dominated by sphagnum moss. Typical plant species include sphagnum moss, leatherleaf, black spruce, pitcher plant and sundew.
- Calcareous Seepage Swamp:** a forested wetland characterized by the discharge of groundwater with a chemistry influenced by the underlying limestone geology.
- Cedar Swamp:** a forested wetland characterized by the presence of Northern White Cedar or Atlantic White Cedar.
- Fen:** a peat accumulating wetland dominated by sedges and/or ericaceous shrubs. Typical plant species include low sedges, ericaceous shrubs, sphagnum and other mosses.
- Spruce Swamp:** a forested wetland characterized by the presence of Red or Black Spruce.
- Vernal Pool:** an often temporary body of water occurring in a shallow depression of natural or human origin that fills during spring rains and snow melt and typically dries up during summer months. Vernal pools support populations of species specially adapted to reproducing in these habitats. Such species may include wood frogs, mole salamanders (*Ambystoma* sp.), fairy shrimp, fingernail clams, and other amphibians, reptiles and invertebrates. Vernal pools lack breeding populations of fish. (NOTE: The Corps will determine on a case-by-case basis which vernal pools are within their jurisdiction. All vernal pools are subject to the jurisdiction of the Connecticut Department of Environmental Protection under Connecticut Water Quality Standards.)
- (6) Threatened, Endangered or Special Concern Species; Significant Natural Communities: Species listed by CT DEP pursuant to Chapter 495 of the Connecticut General Statute as threatened or endangered species or species of special concern. Known locations of threatened and endangered species and species of special concern, and significant natural communities are identified on maps entitled "State and Federal Listed Species and Significant Natural Communities", as amended. These maps are available at city or town clerk offices and in the CT DEP File Room located on the store level of 79 Elm Street, Hartford. <http://www.dep.state.ct.us/>
- (7) Openness Ratio: The cross-sectional area (in square meters) of the opening of a structure divided by the length (measured in meters) of the structure. For a box culvert, openness ratio = (height x width)/length (measured in meters). The imbedded portion of the culvert is not included in the cross-sectional area used for calculating the openness ratio.
- (8) Adverse Affect to Hydraulic Characteristics: An adverse affect to hydraulic characteristics includes an increase in flood water surface elevation, an increase in flood flow velocity or a restriction of flood flow conveyance in a manner that would impact upstream, downstream or adjacent property.

## APPENDIX B

### U.S. ARMY CORPS OF ENGINEERS, NEW ENGLAND DISTRICT PROGRAMMATIC GENERAL PERMIT STATE OF CONNECTICUT

#### CATEGORIES FOR WORK IN WATERS OF THE U.S.<sup>(2)</sup>

#### TIDAL, COASTAL AND NAVIGABLE WATERS (INCLUDING ALL OF THE CONNECTICUT RIVER)

**Navigable Waters:** Waters that are subject to the ebb and flow of the tide, and Federally designated navigable river which in Connecticut includes the Connecticut River to the Massachusetts state line. [Refer to Title 33 CFR Part 329 and Section 1362 Federal Clean Water Act.] The jurisdictional limits are the mean high water (MHW) line in tidal waters and the ordinary high water (OHW) mark in non-tidal portions of the Federally designated navigable river (Connecticut River). For the purposes of this PGP, fill placed in the area between the mean high water (MHW) and the high tide line (HTL), and in the bordering and contiguous wetlands<sup>1</sup> to tidal waters are also reviewed in this Navigable Waters section.

See the last page of this matrix for footnote definitions.

## CATEGORY 1

### 1. A. REPAIR AND MAINTENANCE WORK

#### Activities Eligible for Authorization:

Repair and/or maintenance of existing currently serviceable grandfathered or authorized fills and structures with no expansion or change in use.

Grandfather dates include structures installed before 1968 and fill placed before 1975 for Corps purposes and structures and fill placed before 1980 for CT DEP purposes.

#### Projects That Include Any Of The Following Activities Are NOT Eligible for Authorization Under Category 1:

Project with impacts to Special Aquatic Sites <sup>(3)</sup>

Projects occurring in the main stem of Connecticut River (See General Condition 10)

### 1. B. DREDGING

#### Activities Eligible for Authorization:

Maintenance dredging with:

- contained upland disposal
- proper siltation controls used to prevent runback into the waterway or wetland
- work occurring between October 1 through January 15

#### Projects That Include Any Of The Following Activities Are NOT Eligible for Authorization Under Category 1:

Projects occurring within Special Aquatic Sites <sup>(3)</sup>

Projects occurring in the main stem of the Connecticut River (See General Condition 10)

### 1. C. MOORINGS

#### Activities Eligible for Authorization:

Private, non-commercial, non-rental single boat moorings not associated with any boating facility <sup>(4)</sup>.

Moorings must have harbormaster approval.

#### Projects That Include Any Of The Following Activities Are NOT Eligible for Authorization Under Category 1:

Moorings located in Federal Navigation Project (channel, anchorage or turning basin).

Moorings that interfere with navigation.

Projects occurring in the main stem of the Connecticut River (See General Condition 10)

**CATEGORY 1 (Continued)**

**1. D. FILE-SUPPORTED STRUCTURES**

**Activities Eligible for Authorization:**

Reconfiguration of existing authorized structures provided those structures do not extend beyond the existing perimeter of the facility.

Construction of private residential structures with a length limit of 40 feet beyond mean high water and to a depth of -4 feet mean low water and a width limit of 4 feet.

Osprey platforms and perch poles that meet CT General Permit LIS-GP-004.

**Projects That Include Any Of The Following Activities Are NOT Eligible for Authorization Under Category 1:**

No additional slips or expansion allowed for reconfiguration of existing authorized structures.

Structures within 25' of the riparian boundary, unless prior approval of abutting property owner(s)

No floats/structures shall be located over submerged aquatic vegetation or over tidal wetlands.

No floats shall sit on the substrate during any tide.

Projects occurring in the main stem of the Connecticut River (See General Condition 10)

**1. E. BRIDGE WORK**

**Activities Eligible for Authorization:**

Discharges of dredged or fill material incidental to the construction of bridges across navigable waters of the United States, including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills are authorized by this General Permit provided the U.S. Coast Guard authorizes such discharges as part of the bridge permit.

**Projects That Include Any Of The Following Activities Are NOT Eligible for Authorization Under Category 1:**

No causeways or approach fills are included in this category.

Projects occurring in the main stem of the Connecticut River (See General Condition 10)

Projects occurring in special aquatic sites<sup>(3)</sup>

CATEGORY 1 (Continued)

1. F. MISCELLANEOUS

Activities Eligible for Authorization:

Temporary buoys, markers, floats, etc. for recreational use during specific events, provided they are removed within 30 days of their use.

Coast Guard approved Aids to Navigation.

Oil spill clean up.

Scientific measurement devices and survey activities, such as exploratory drilling, surveying, samplings.

Projects That Include Any Of The Following Activities Are NOT Eligible for Authorization Under Category 1:

No floats/structures shall be located over submerged aquatic vegetation or over tidal wetlands.

Scientific measurement devices do not include oil/gas exploration and fills for roads/construction pads.

Projects occurring in a component of, or within 0.25 mile up or downstream of the main stem of tributaries of a river segment of, the National Wild and Scenic River System. <http://www.nps.gov/rivers/>

Projects occurring in the main stem of the Connecticut River. (See General Condition 10)

CATEGORY 2 (SCREENING)	
<b>2. A. FILL/EXCAVATION</b>	
<p><u>Activities Eligible for Authorization:</u></p> <p>Up to 1 acre waterway/wetland fill and/or excavation including secondary impacts (e.g. areas that are drained, flooded, cleared, excavated or degraded.)</p> <p>The one-acre limit does not apply to Integrated Marsh Management (including open marsh management) or wetland restoration projects, provided that impacts to the aquatic resources are minimal and there is a preplanning component to the project that includes review, representation and approval from all federal and state agencies on the screening committee.</p> <p>Includes temporary and permanent fill.</p> <p>Beach nourishment with compatible grain size.</p>	<p><u>Projects That Include Any Of The Following Activities Or Elements Are NOT Eligible for Authorization under Category 2 and will require an Individual Permit</u></p> <p>Greater than 1 acre waterway fill and secondary impacts that are not considered proactive restoration projects.</p> <p>No permanent fill and/or excavation in special aquatic sites<sup>(3)</sup>.</p>
<b>2.B. REPAIR AND MAINTENANCE WORK</b>	
<p><u>Activities Eligible for Authorization:</u></p> <p>Repair of any non-serviceable structures or fills, or repair/maintenance of serviceable structures or fills with expansion up to one acre or change in use.</p>	<p><u>Projects That Include Any Of The Following Activities Or Elements Are NOT Eligible for Authorization under Category 2 and will require an Individual Permit</u></p> <p>Replacement of non-serviceable structures or fills.</p> <p>Repair and maintenance of serviceable fills greater than one acre.</p>
<b>2.C. DREDGING</b>	
<p><u>Activities Eligible for Authorization:</u></p> <p>Maintenance, new, or improvement dredging with disposal at upland, open water, confined aquatic disposal cells, or beach nourishment, provided material to be dredged is determined suitable by the Corps for disposal.</p>	<p><u>Projects That Include Any Of The Following Activities Or Elements Are NOT Eligible for Authorization under Category 2 and will require an Individual Permit:</u></p> <p>Federal proponents disposing of dredged material in open water.</p> <p>Dredging of &gt;25,000 cubic yards of material with open water disposal.</p> <p>Dredging in or affecting special aquatic sites<sup>(3)</sup>.</p>



**CATEGORY 2 (Continued)**

**2. E. MOORINGS**

**Activities Eligible for Authorization:**

All commercial moorings in all locations and any moorings that do not have harbor master approval and that are located in a Federal Navigation Project.

**Projects That Include Any Of The Following**

**Activities Or Elements Are NOT Eligible for Authorization under Category 2 and will require an Individual Permit:**

Any mooring that interferes with navigation.

**2.F.PILE-SUPPORTED STRUCTURES**

**Activities Eligible for Authorization:**

Piers and floats for navigational access to the waterway that are not eligible under Category 1.

New structures within an existing boating facility, provided those structures do not extend beyond the existing perimeter of the facility.

**Projects That Include Any Of The Following**

**Activities Or Elements Are NOT Eligible for Authorization under Category 2 and will require an Individual Permit:**

Structures/piers/floats that extend, or with docked/moored vessels, that extend within horizontal limits of a Federal navigation project.

Structures/piers/floats within a previously unauthorized boating facility. <sup>(4)</sup>

**2.G. AQUACULTURE PROJECTS**

**Activities Eligible for Authorization:**

All on-bottom shellfish rearing devices and all off-bottom suspended systems (including longlines, lantern nets, rafts, and associated work floats) for the culture of shellfish or seaweed.

Installation of intake and discharge structure for land-based hatchery with once-through circulation system.

All must be marked and maintained in conformance w/ 33 CFR 64, and receive U.S. Coast Guard permission for Aids to Navigation.

**Projects That Include Any Of The Following**

**Activities Or Elements Are NOT Eligible for Authorization under Category 2 and will require an Individual Permit:**

No impacts to special aquatic sites<sup>(3)</sup>.

**CATEGORY 2 (Continued)**

## 2.H.BRIDGE WORK

### Activities Eligible for Authorization:

Causeways and approach fills associated with discharges of dredged or fill material incidental to the construction of bridges across navigable waters of the United States.

Projects That Include Any Of The Following Activities Or Elements Are NOT Eligible for Authorization under Category 2 and will require an Individual Permit:

EIS projects required by the Corps.

## 2. I.MISCELLANEOUS

### Activities Eligible for Authorization:

Structures/ work in or affecting tidal/navigable waters that are not defined under any of the previous headings. Includes, but not limited to: utility lines, aerial transmission lines, pipelines, outfalls, boat ramps, submarine cables.

Projects That Include Any Of The Following Activities Or Elements Are NOT Eligible for Authorization under Category 2 and will require an Individual Permit:

EIS projects required by the Corps.

Activities within the horizontal limits of Corps Federal Navigation Projects, or with docked or moored vessels that extend within those limits.

## Definitions

- (1) **Navigable Waters:** Waters that are subject to the ebb and flow of the tide, and Federally designated navigable rivers, which in Connecticut includes the Connecticut River to the Massachusetts state line. [Refer to Title 33 CFR Part 329 and Section 1362 Federal Clean Water Act.] The jurisdictional limits are the mean high water (MHW) line in tidal waters and the ordinary high water (OHW) mark in non-tidal portions of the Federally designated navigable river (Connecticut River). For the purposes of this PGP, fill placed in the area between the mean high water (MHW) and the high tide line (HTL), and in the bordering and contiguous wetlands to tidal waters are also reviewed in this Navigable Waters section.
- (2) **Connecticut DEP, Office of Long Island Sound Programs Authorizations:**
- Structures, Dredging and Filling Permit (CGS Sections 22a-359 through 22a-363f)
  - Tidal Wetlands Permit under the Tidal Wetlands Act (CGS Sections 22-a through 22a-35a)
  - Certificate of Permission (CGS Section 22a-363b)
  - Long Island Sound General Permits (CGS Sections 22a-28 to 22a-35 and Sections 22a-359 to 22a-363f inclusive)
  - Approvals for marine based aquaculture activities required by CGS Section 22-11h implemented by the CT Department of Agriculture (DOA) including individual in-water structures used for aquaculture, including, but not limited to, racks, cages or bags, as well as buoys marking such structures.
  - Coastal Zone Management Consistency (CZM) Concurrence under Section 307 of the Federal Coastal Zone Management Act of 1972, as amended.
- (3) **Special Aquatic Sites:** Include wetlands (inland and salt marsh), mud flats, vegetated shallows (permanently inundated areas that support rooted aquatic vegetation such as eel grass, celery grass and tape grass), coral reefs, and riffle and pool complexes. [Refer to 40 CFR Part 230 Subpart E]
- (4) **Boating Facilities:** Facilities that provide, rent, or sell mooring space, such as marinas, yacht clubs, boat yards, town facilities, dockominiums, etc.